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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/232,258	01/19/99	JONES	R

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HM12/0425

EXAMINER

LEVY, N

ART UNIT

PAPER NUMBER

1616

DATE MAILED:

04/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

232208

Applicant(s)

JONAS

Examiner

NEIL LAY

Group Art Unit

16/6

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 1/16/07
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 2-11 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 2-11 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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Receipt is acknowledged of Request for Time and Substitute Specification, each of 1/16/01.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The tray may or may not hold adhesive (line 2, claim 2, 8 and 3 of 11) but later recites adhesive-please eliminate the first "or" or explain. Parentheses should not be in claims (2, 11).

Claims 2-11 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The adhesive/glue/bait is not sufficiently detailed to permit one in the art to provide an adhesive or bait which, upon exposure to air, would still provide effective trapping gas opposed to by-passing, of roach or rodent. The bait/adhesive/glue in essence is undefined or unspecified.

Claims 2-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staley 3304646.

Staley provides the essence of the instant invention; a cheap, throw away, plastic trap/container, size a function of insect or rodent of desire (Col. 2, line 19-33) with surfaces coated with bait and sticky glue, to which stick the bugs and mice as they crawl under the object

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trap. The only absent feature from that of the instant invention, is the completion by Staley, of the trap; providing a floor.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made, desiring to utilize an insect/mouse trap, to use one of Staley, modified so as to provide cheaper construction, by eliminating the base or floor. Thus, Fig 1, 5 show the rectangular trap, overlong lip 11, 12 protruding up from the wall. With this construction, the trap need not be inverted to function; however, an even cheaper version would constitute neither base nor roof, of an article of Fig. 1.

Claims 2, 3, 4, 5, 7, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Cotterson 4244134.

See Fig. 6-32 is rectangular base, with protuberances 42 on lip 36, extending from the adhesive with bait portion (col. 6, line 49-line 42, col.7). This is the instant invention, designed with multiple protuberances, able to contact the top, interior of which is coated with adhesive (col. 7, line 5-8). Thus, one would have the option, of a self contained trap; to which a rodent or cockroach may come, enter and stick, and/or the floor alone may constitute the adhesive/bait, which, if inverted, provides the instant article, no patentable weight given to the position of the stuck rodent and/or insect.

Claims 2-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Frisch DE 5289314 or McGinn et al EP 079225.

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Frisch: The adhesive rodent trap is shown, but with 2 protuberances, rather than 1 except for Fig. 5, with one in the middle.

McGinn: See Fig. 1 and abstract.

Claims 2-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frisch or McGinn in view of Staley, Gehret et al 5665370 and Nishimura et al 3913259.

See above for Frisch, McGinn, and Staley- they provide the instant trap, placed where desired, to permit insects, rodents to crawl into, on or, if inverted; under. No statement if inversion is found. Gehret also provides sticky traps, with bait (col. 3, line 26-45, col. 5, line 52-line 2, col. 6, line 46-61) Gehret explicitly points to any surface, including the underside of top cover, as adhesive placement site of glue. Nishimura shows why: strong cockroaches can often escape (col. 1, line 59-66) due to strong leg power (col. 3, line 59-61). Thus, if glue is unspecified, and one is desirous of catching strong legged cockroaches, or mice, adhesive to back, on an inverted Frisch/McGinn trap portion would be obvious to the artisan of ordinary skill in the art of catching cockroach, and mice to provide.

Applicant's arguments filed 1/16/01 fax have been fully considered but they are not persuasive. Corrected filing receipt to 1/19/99 is noted. Applicants arguments are to the effect examiner used hindsight. Many versions of the applicants article are seen in the cockroach and mouse house arts-with inversion, as examiner points to, achieving applicant's ends. Examiner finds, as cited, inversion to not be necessary in some cases; and in these forms, the insect or rodent would, willy-nilly, be trapped by the back, one in the art being able to adjust heights as

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desired/ in essence, examiner finds the back trap, although not specifically so stated, to be a necessary result of reasonable use of prior art articles. The placement, adhesive bait and sizes are all within the purview of one of ordinary skill in the art. They are not seen as a basis for patentability. Examiner suggests submission of a sample glue trap, empty of cockroaches, to buttress the evidence of photographs 1-7+.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy:mv

April 11, 2001



**NEIL S. LEVY**  
**PRIMARY EXAMINER**